

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

JAI VINEYAK GHATNEKAR, M.D.)

Case No. 09-2012-228268

**Physician's and Surgeon's)
Certificate No. C 42883)**

Respondent)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 10, 2015.

IT IS SO ORDERED: May 11, 2015.

MEDICAL BOARD OF CALIFORNIA



**Jamie Wright, J.D., Chair
Panel A**

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
Deputy Attorney General
4 State Bar No. 155553
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2094
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*

10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **JAI GHATNEKAR, M.D.**
15 **6601 White Feather Road, Suite A-4**
Joshua Tree, CA 92252

16 **Physician's and Surgeon's Certificate No.**
17 **C42883,**

18 Respondent.

Case No. 09-2012-228268

OAH No. 2014060595

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
23 of California and is represented in this matter by Kamala D. Harris, Attorney General of the State
24 of California, by Martin W. Hagan, Deputy Attorney General.

25 2. Respondent Jai Ghatnekar, M.D. (respondent) is represented in this proceeding by
26 attorney Jeffrey G. Keane, Esq., of Kramer Deboer & Keane whose address is: 74770 US
27 Highway 111, Suite 201, Indian Wells, CA 92210.

28 ////

3. On or about June 18, 1991, the Medical Board of California issued Physician's and Surgeon's Certificate No. C42883 to Jai Ghatnekar, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges and allegations brought in Accusation No. 09-2012-228268 and will expire on August 31, 2016, unless renewed.

JURISDICTION

4. On March 26, 2014, Accusation No. 09-2012-228268 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against respondent. A true and correct copy of the Accusation and all other statutorily required documents were properly served on respondent on March 26, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 09-2012-228268 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

ADVICE AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and fully understands the charges and allegations in Accusation No. 09-2012-228268. Respondent has also carefully read, fully discussed with counsel, and fully understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 09-2012-228268; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Having the benefit of counsel, respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 discretion, approve and adopt this Stipulated Settlement and Disciplinary Order, with the
2 exception of this paragraph, it shall not become effective, shall be of no evidentiary value
3 whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party
4 hereto. Respondent further agrees that should this Stipulated Settlement and Disciplinary Order
5 be rejected for any reason by the Board, respondent will assert no claim that the Board, or any
6 member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this
7 Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

8 **ADDITIONAL PROVISIONS**

9 13. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to
10 be an integrated writing representing the complete, final and exclusive embodiment of the
11 agreements of the parties in the above-entitled matter.

12 14. The parties agree that copies of this Stipulated Settlement and Disciplinary Order,
13 including copies of the signatures of the parties, may be used in lieu of original documents and
14 signatures and, further, that such copies shall have the same force and effect as originals.

15 15. In consideration of the foregoing admissions and stipulations, the parties agree the
16 Board may, without further notice to or opportunity to be heard by respondent, issue and enter the
17 following Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C42883 issued
20 to respondent Jai Ghatnekar, M.D. (respondent) is revoked. However, the revocation is stayed
21 and respondent is placed on probation for seven (7) years from the effective date of this decision
22 on the following terms and conditions:

23 1. **EDUCATION COURSE:** Within 60 calendar days of the effective date of this
24 Decision, and on an annual basis thereafter, respondent shall submit to the Board or its designee
25 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
26 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
27 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
28 educational program(s) or course(s) shall be at respondent's expense and shall be in addition to

1 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
2 completion of each course, the Board or its designee may administer an examination to test
3 respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours
4 of CME of which 40 hours were in satisfaction of this condition.

5 2. **CLINICAL TRAINING PROGRAM:** Within 60 calendar days of the effective
6 date of this Decision, respondent shall enroll in a clinical training or educational program
7 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the
8 University of California - San Diego School of Medicine ("Program"). Respondent shall
9 successfully complete the Program not later than six (6) months after respondent's initial
10 enrollment unless the Board or its designee agrees in writing to an extension of that time.

11 The Program shall consist of a Comprehensive Assessment program comprised of a two-
12 day assessment of respondent's physical and mental health; basic clinical and communication
13 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
14 respondent's area of practice in which respondent was alleged to be deficient, and at minimum, a
15 40 hour program of clinical education in the area of practice in which respondent was alleged to
16 be deficient and which takes into account data obtained from the assessment, Decision(s),
17 Accusation(s), and any other information that the Board or its designee deems relevant.
18 Respondent shall pay all expenses associated with the clinical training program.

19 Based on respondent's performance and test results in the assessment and clinical
20 education, the Program will advise the Board or its designee of its recommendation(s) for the
21 scope and length of any additional educational or clinical training, treatment for any medical
22 condition, treatment for any psychological condition, or anything else affecting respondent's
23 practice of medicine. Respondent shall comply with Program recommendations.

24 At the completion of any additional educational or clinical training, respondent shall submit
25 to and pass an examination. Determination as to whether respondent successfully completed the
26 examination or successfully completed the program is solely within the program's jurisdiction.

27 If respondent fails to enroll, participate in, or successfully complete the clinical training
28 program within the designated time period, respondent shall receive a notification from the Board

1 or its designee to cease the practice of medicine within three (3) calendar days after being so
2 notified. The respondent shall not resume the practice of medicine until enrollment or
3 participation in the outstanding portions of the clinical training program have been completed. If
4 the respondent did not successfully complete the clinical training program, the respondent shall
5 not resume the practice of medicine until a final decision has been rendered on the accusation
6 and/or a petition to revoke probation. The cessation of practice shall not apply to the reduction of
7 the probationary time period.

8 3. **MONITORING - PRACTICE**: Within 30 calendar days of the effective date of this
9 Decision, respondent shall submit to the Board or its designee for prior approval as a practice
10 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
11 licenses are valid and in good standing, and who are preferably American Board of Medical
12 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
13 relationship with respondent, or other relationship that could reasonably be expected to
14 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
15 but not limited to any form of bartering, shall be in respondent's field of practice, and must agree
16 to serve as respondent's monitor. Respondent shall pay all monitoring costs.

17 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
18 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
19 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
20 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
21 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
22 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
23 signed statement for approval by the Board or its designee.

24 Within 60 calendar days of the effective date of this Decision, and continuing throughout
25 probation, respondent's practice shall be monitored by the approved monitor. Respondent shall
26 make all records available for immediate inspection and copying on the premises by the monitor
27 at all times during business hours and shall retain the records for the entire term of probation.

28 ////

1 If respondent fails to obtain approval of a monitor within 60 calendar days of the effective
2 date of this Decision, respondent shall receive a notification from the Board or its designee to
3 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
4 shall cease the practice of medicine until a monitor is approved to provide monitoring
5 responsibility.

6 The monitor shall submit a quarterly written report to the Board or its designee which
7 includes an evaluation of respondent's performance, indicating whether respondent's practices are
8 within the standards of practice of, and whether respondent is practicing medicine safely, billing
9 appropriately or both. It shall be the sole responsibility of respondent to ensure that the monitor
10 submits the quarterly written reports to the Board or its designee within 10 calendar days after the
11 end of the preceding quarter.

12 If the monitor resigns or is no longer available, respondent shall, within 5 calendar days of
13 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
14 name and qualifications of a replacement monitor who will be assuming that responsibility within
15 15 calendar days. If respondent fails to obtain approval of a replacement monitor within 60
16 calendar days of the resignation or unavailability of the monitor, respondent shall receive a
17 notification from the Board or its designee to cease the practice of medicine within three (3)
18 calendar days after being so notified respondent shall cease the practice of medicine until a
19 replacement monitor is approved and assumes monitoring responsibility.

20 In lieu of a monitor, respondent may participate in a professional enhancement program
21 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
22 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
23 chart review, semi-annual practice assessment, and semi-annual review of professional growth
24 and education. Respondent shall participate in the professional enhancement program at
25 respondent's expense during the term of probation.

26 4. **PROHIBITED PRACTICE:** During probation, respondent is prohibited from
27 performing the any of the following procedures on any patient: diaphragmatic herniorrhaphies,
28 gastrectomy, small and large bowel incision and resection, common duct incisions, diverting

1 biliary procedures, splenectomy, adrenalectomy, radical lymphadenectomy, thyroid resection,
2 parathyroid resection, salivary gland resection, thyroglossal duct cyst resection, bronchoscopy,
3 upper extremity-minor, laparoscopic (lysis of adhesions, vagotomy, herniorrhaphy),
4 lymphadenectomy, cystoscopy, pancreas incision and resection, hepatic surgery, liver resection
5 and esophageal diverticula resection. In addition, during probation, respondent is also prohibited
6 from providing emergency room (ER) on call coverage. This prohibited practice condition shall
7 remain in full force and effect until and unless respondent provides satisfactory proof of his
8 successful completion of the Clinical Training Program (PACE) and is notified in writing by the
9 Board or its designee that he is no longer subject to this prohibited practice condition. If no such
10 proof is provided, this prohibited practice condition shall remain in full force and effect for the
11 entire length of probation.

12 After the effective date of this Decision, all patients being treated by the respondent shall be
13 notified in writing that he is subject to the aforementioned prohibited practice condition which
14 shall list each of the prohibited procedures and activities listed above. All new patients must also
15 be provided with this written notification at the time of their initial appointment. The
16 aforementioned patient notification requirements shall remain in full force and effect until and
17 unless respondent provides satisfactory proof of his successful completion of the Clinical
18 Training Program (PACE) and is notified in writing by the Board or its designee that he is no
19 longer required to provide these patient notifications. If no such proof is provided, the
20 aforementioned patient notification requirements shall remain in full force and effect for the
21 entire length of probation.

22 Respondent shall maintain a log of all patients to whom the required written notification
23 was made. The log shall contain the: (1) patient's name, address and phone number; patient's
24 medical record number, if available; (2) the full name of the person making the notification; (3)
25 the date the written notification was given to the patient; and (4) a copy of the written notification
26 that was provided to the patient. Respondent shall keep this log in a separate file or ledger, in
27 chronological order, shall make the log available for immediate inspection and copying on the
28 premises at all times during business hours by the Board or its designee, and shall retain the log

1 for the entire term of probation.

2 5. **NOTIFICATION:** Within seven (7) days of the effective date of this Decision, the
3 respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
4 Chief Executive Officer at every hospital where privileges or membership are extended to
5 respondent, at any other facility where respondent engages in the practice of medicine, including
6 all physician and locum tenens registries or other similar agencies, and to the Chief Executive
7 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.
8 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar
9 days. This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

10 6. **SUPERVISION OF PHYSICIAN ASSISTANTS:** During probation, respondent is
11 prohibited from supervising physician assistants.

12 7. **OBEY ALL LAWS:** Respondent shall obey all federal, state and local laws, all rules
13 governing the practice of medicine in California and remain in full compliance with any court
14 ordered criminal probation, payments, and other orders.

15 8. **QUARTERLY DECLARATIONS:** Respondent shall submit quarterly declarations
16 under penalty of perjury on forms provided by the Board, stating whether there has been
17 compliance with all the conditions of probation. Respondent shall submit quarterly declarations
18 not later than 10 calendar days after the end of the preceding quarter.

19 9. **GENERAL PROBATION REQUIREMENTS:**

20 **Compliance with Probation Unit:** Respondent shall comply with the Board's probation
21 unit and all terms and conditions of this Decision.

22 **Address Changes:** Respondent shall, at all times, keep the Board informed of respondent's
23 business and residence addresses, email address (if available), and telephone number. Changes of
24 such addresses shall be immediately communicated in writing to the Board or its designee. Under
25 no circumstances shall a post office box serve as an address of record, except as allowed by
26 Business and Professions Code section 2021(b).

27 **Place of Practice:** Respondent shall not engage in the practice of medicine in respondent's
28 or patient's place of residence, unless the patient resides in a skilled nursing facility or other

1 similar licensed facility.

2 **License Renewal:** Respondent shall maintain a current and renewed California physician's
3 and surgeon's license.

4 **Travel or Residence Outside California:** Respondent shall immediately inform the Board
5 or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts,
6 or is contemplated to last, more than thirty (30) calendar days. In the event respondent should
7 leave the State of California to reside or to practice respondent shall notify the Board or its
8 designee in writing 30 calendar days prior to the dates of departure and return.

9 10. **INTERVIEW WITH THE BOARD OR ITS DESIGNEE:** Respondent shall be
10 available in person upon request for interviews either at respondent's place of business or at the
11 probation unit office, with or without prior notice throughout the term of probation.

12 11. **NON-PRACTICE WHILE ON PROBATION:** Respondent shall notify the Board
13 or its designee in writing within 15 calendar days of any periods of non-practice lasting more than
14 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is
15 defined as any period of time respondent is not practicing medicine in California as defined in
16 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
17 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
18 time spent in an intensive training program which has been approved by the Board or its designee
19 shall not be considered non-practice. Practicing medicine in another state of the United States or
20 Federal jurisdiction while on probation with the medical licensing authority of that state or
21 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
22 not be considered as a period of non-practice.

23 In the event respondent's period of non-practice while on probation exceeds 18 calendar
24 months, respondent shall successfully complete a clinical training program that meets the criteria
25 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
26 Disciplinary Guidelines" prior to resuming the practice of medicine. Respondent's period of non-
27 practice while on probation shall not exceed two (2) years. Periods of non-practice will not apply
28 to the reduction of the probationary term. Periods of non-practice will relieve respondent of the

1 responsibility to comply with the probationary terms and conditions with the exception of this
2 condition and the following terms and conditions of probation: Obey All Laws; and General
3 Probation Requirements.

4 12. **COMPLETION OF PROBATION:** Respondent shall comply with all financial
5 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
6 completion of probation. Upon successful completion of probation, respondent's certificate shall
7 be fully restored.

8 13. **VIOLATION OF PROBATION:** Failure to fully comply with any term or
9 condition of probation is a violation of probation. If respondent violates probation in any respect,
10 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation
11 and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
12 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board
13 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
14 extended until the matter is final.

15 14. **LICENSE SURRENDER:** Following the effective date of this Decision, if
16 respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
17 the terms and conditions of probation, respondent may request to surrender his or her license. The
18 Board reserves the right to evaluate respondent's request and to exercise its discretion in
19 determining whether or not to grant the request, or to take any other action deemed appropriate
20 and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent
21 shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its
22 designee and respondent shall no longer practice medicine. Respondent will no longer be subject
23 to the terms and conditions of probation. If respondent re-applies for a medical license, the
24 application shall be treated as a petition for reinstatement of a revoked certificate.

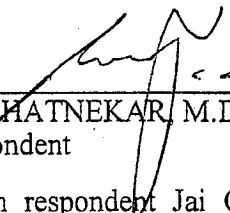
25 15. **PROBATION MONITORING COSTS:** Respondent shall pay the costs associated
26 with probation monitoring each and every year of probation, as designated by the Board, which
27 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
28 California and delivered to the Board or its designee no later than January 31 of each calendar

1 year.

2 ACCEPTANCE

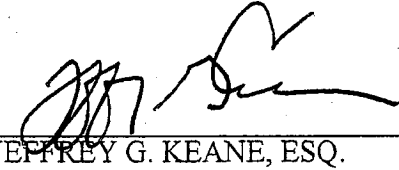
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Jeffrey G. Keane, Esq. I understand the stipulation and the effect it
5 will have on my Physician's and Surgeon's Certificate No. C42883. I enter into this Stipulated
6 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
7 bound by the Decision and Order of the Medical Board of California.

8
9 DATED: 4-3-15


JAI GHATNEKAR, M.D.
Respondent

11 I have read and fully discussed with respondent Jai Ghatnekar, M.D., the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14
15 DATED: 4-3-15


JEFFREY G. KEANE, ESQ.
Attorney for Respondent

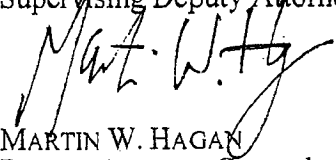
17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Medical Board of California.

20 DATED: 4-3-15

Respectfully submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 THOMAS S. LAZAR
24 Supervising Deputy Attorney General


25 MARTIN W. HAGAN
26 Deputy Attorney General
Attorneys for Complainant

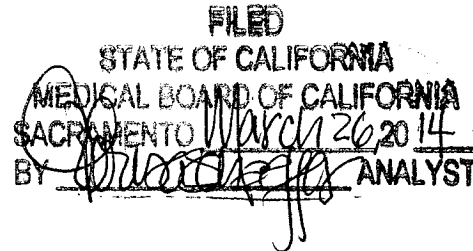
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Exhibit A

Accusation No. 09-2012-228268

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 MARTIN W. HAGAN
Deputy Attorney General
4 State Bar No. 155553
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2094
7 Facsimile: (619) 645-2061

8 *Attorneys for Complainant*



10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
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13 In the Matter of the Accusation Against:

Case No. 09-2012-228268

14 **JAI VINAYAK GHATNEKAR, M.D.**
15 **6601 White Feather Road, Suite A-4**
Joshua Tree, CA 92252

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate No.**
17 **C42883**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

23 2. On or about June 18, 1991, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number C42883 to Jai Vinayak Ghatnekar, M.D. (Respondent). The
25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges
26 and allegations brought herein and will expire on August 31, 2014, unless renewed.

27 ////

28 ////

JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, be publicly reprimanded, or have such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(b) Gross negligence.

“(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

“(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

“(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

“ ”

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Gross Negligence)**

3 6. Respondent has subjected his Physician's and Surgeon's Certificate Number C42883 to
4 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the
5 Code, in that he committed gross negligence in his care and treatment of patients JL, TF and LJ, as
6 more particularly alleged herein:

7 **Patient JL**

8 7. On or about January 5, 2011, patient JL, a forty-five (45) year old male, was admitted to
9 Hi-Desert Medical Center where he presented with chest pain, cough, fever and shortness of breath.
10 The patient's chest x-ray indicated a right lower lobe pneumonia and concomitant right loculated
11 pleural effusion (accumulation of fluid around the lung area). The patient was placed on antibiotics
12 and respondent was consulted the next day for a right tube thorascotomy (placement of chest tube) to
13 address the pleural effusion. Respondent placed the chest tube in the patient without complication.
14 Despite his treatment, the patient's condition worsened and he was transferred to the intensive care
15 unit (ICU).

16 8. On or about January 10, 2011, patient JL developed abdominal distention and
17 abdominal pain. The patient was noted to have a spontaneous collapse of the right lung and
18 pneumoperitoneum (free air in his abdominal cavity). Over the next few days, patient JL had
19 increased abdominal discomfort which warranted a tomography scan of the patient's abdomen and
20 pelvis. The tomography scan resulted in a finding of free air, free fluid and a thickening of the recto-
21 sigmoid region of the colon.

22 9. On January 17, 2011, respondent performed an exploratory laparotomy¹ on patient JL
23 where he observed and noted inflammation, food particles and left colon abnormalities. Respondent
24 was unable to locate any overt perforation. An appendectomy was performed and the surgical
25 procedure was terminated after placement of drains.

26 _____
27 ¹ An exploratory laparotomy is an open procedure that can be performed to further evaluate
28 and investigate abdominal problems.

10. On January 21, 2011, patient JL was transferred to Loma Linda Hospital.

11. On January 22, 2011, patient JL underwent another exploratory laparotomy which was performed by another surgeon. During this procedure, significant fecal contamination was encountered and a perforated sigmoid colon (pelvic colon) was located. A sigmoid resection and diverted colostomy was performed to address the perforation.

Patient TF

12. Patient TF, a twenty-seven (27) year old female, first presented to the Hi-Desert Medical Center Emergency Department with nausea and adnominal cramps. The patient was twenty-six (26) weeks pregnant when she first presented. The patient returned the next day and was admitted to the hospital with right lower percussion tenderness and rebound tenderness. Based on the patient's clinical presentation, a consultation was requested.

13. On or about October 26, 2011, respondent had his first visit with patient TF in response to the consultation request. The patient's chief complaints were listed as abdominal pain, vomiting and loss of appetite. After obtaining a history, conducting a physical examination and reviewing laboratory data, respondent made a diagnosis of right lower quadrant abdominal pain with a possibility of acute appendicitis. The plan was to perform a laparoscopy² and appendectomy. Respondent noted the possible risks of miscarriage and harm to the fetus along with the complications and risks of surgery.

14. On or about October 26, 2011, respondent proceeded with the laparoscopy and appendectomy on patient TF. Respondent identified what was believed to be the appendix which was dissected free, ligated and then removed. Subsequent pathology of the removed specimen indicated that it was not the appendix and a subsequent procedure to remove the appendix was scheduled.

15. On or about October 28, 2011, respondent performed a second procedure on patient TF to remove the appendix. The procedure began laparoscopically and was converted to an open procedure

² Laparoscopy is a surgical procedure in which a small incision is made, usually in the navel, through which a viewing tube (laparoscope) is inserted. The viewing tube has a small camera which allows the physician to examine the abdominal and pelvic organs on a video monitor. Other small incisions can be made to insert other instruments to perform other various procedures. Laparoscopy is typically less invasive than regular open abdominal surgery known as laparotomy.

1 (laparotomy) after dense adhesions had formed since the last procedure which, in respondent's
2 opinion, made it "impossible to reach the right lower quadrant of the abdomen." Respondent
3 dissected additional adhesions until the appendix was properly identified and removed.

4 Patient LJ

5 16. Patient LJ, a forty-two (42) year old female, first presented Hi-Desert Medical Center for
6 treatment of a rectal stricture and possible vaginal fistula due to diverticulosis. Her pre-operative
7 history and physical examination indicated a main complaint of abdominal pain occurring every few
8 minutes.

9 17. On or about March 26, 2012, patient LJ underwent a sigmoid resection³ and primary
10 anastomosis.⁴ The operation started out laparoscopically and then was converted to an open
11 procedure. According to the Hospital Peer Review Report for patient TF, "[t]he anastomosis was
12 hand sewn and not tested with air and saline." The post-operative course was normal until March 30,
13 2012, when the patient began to drain bilious fluid from her JP drain which was thought to be related
14 to an anastomotic dehiscence (leak following anastomosis).

15 18. Patient LJ's post-operative course gradually declined and a second surgery was
16 performed on or about April 4, 2012, to address the patient's pre-operative diagnosis of peritonitis.⁵
17 Respondent performed open exploratory surgery (laparotomy), which included an abdominal lavage
18 (washing), and a diverting colostomy. During the surgery, respondent was unable to locate any
19 intestinal leakage, anastomic leakage and/or any other source of the bilious drainage that was
20 previously observed and noted. A drain was placed, the abdomen was closed, and the patient was
21 transferred to the intensive care unit.

22 ³ The sigmoid colon is the S-shaped portion of the lower part of the large intestine that
23 terminates at the rectum. Sometimes a medical condition will interfere with the function of the
24 sigmoid colon. If this condition does not respond to medical treatment it may be necessary to perform
a sigmoid resection or surgical removal of the sigmoid colon.

25 ⁴ An anastomosis is a surgical connection between two structures. It usually means a
26 connection that is created between tubular structures, such as blood vessels or loops of intestine. For
example, when part of an intestine is surgically removed, the two remaining ends are sewn or stapled
together (anastomosed), and the procedure is referred to as an anastomosis.

27 ⁵ Peritonitis is an intra-abdominal infection that can be caused by anastomic leakage.
28

1 19. Patient LJ's post-operative course following the second procedure, set forth above, was
2 marked with signs of intra-abdominal sepsis (infection) associated with renal failure related to an
3 uncontrolled intestinal leak. The patient was discharged and transferred to a higher level of care on or
4 about April 13, 2012, which was followed by additional operations by others to treat multiple fistulas
5 and leaks from the small bowel and the duodenal stump area. The patient was declared brain dead in
6 August 2012.

7 20. Respondent committed gross negligence in his care and treatment of patients JL, TF and
8 LJ which included, but was not limited to, the following:

9 (a) Failing to perform a left colon resection and end colostomy (Hartmann
10 procedure) on patient JL which was warranted given intraoperative findings consistent
11 with an intestinal perforation and significant intra-abdominal contamination;

12 (b) Failing to appropriately identify and remove patient TF's appendix during
13 the original laparoscopic appendectomy of October 26, 2011, which resulted in patient
14 TF undergoing a second appendectomy which placed the patient and her fetus at
15 additional risk; and

16 (c) Failing to adequately evaluate patient LJ's gastrointestinal tract during the
17 exploratory surgery of April 4, 2012, and then terminating the surgery without
18 determining and addressing the etiology of the drainage and/or leakage.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Repeated Negligent Acts)**

21 21. Respondent has further subjected his Physician's and Surgeon's Certificate Number
22 C42883 to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision
23 (c), of the Code, in that he committed repeated negligent acts in the care and treatment of patients TF,
24 JL and LJ, as more particularly alleged hereinafter:

25 22. Respondent committed repeated negligent acts in her care and treatment of patients TF,
26 JL and LJ, which included, but was not limited to, the following:

27 (a) Paragraphs 6 through 20, above, are hereby incorporated by reference and
28 realleged as if fully set forth herein;

1 (b) Failing to perform a left colon resection and end colostomy (Hartmann
2 procedure) on patient JL which was warranted given intraoperative findings consistent
3 with an intestinal perforation and significant intra-abdominal contamination;

4 (c) Failing to consider and/or rule out an abdominal source at the time of the
5 initial indication of pneumoperitoneum (intra-abdominal free air) in patient JL

6 (d) Failing to appropriately identify and remove patient TF's appendix during
7 the original laparoscopic appendectomy of October 26, 2011, which resulted in patient
8 TF undergoing a second appendectomy which placed the patient and her fetus at
9 additional risk; and

10 (e) Failing to adequately evaluate patient LJ's gastrointestinal tract during the
11 exploratory surgery of April 4, 2012, and then terminating the surgery without
12 determining and addressing the etiology of the drainage and/or leakage.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Medical Board of California issue a decision:

16 1. Revoking or suspending Physician's and Surgeon's Certificate Number C42883, issued to
17 respondent Jai Vinayak Ghatnekar, M.D.

18 2. Revoking, suspending or denying approval of respondent Jai Vinayak Ghatnekar, M.D.'s
19 authority to supervise physician assistants, pursuant to section 3527 of the Code;

20 3. Ordering respondent Jai Vinayak Ghatnekar, M.D. to pay the Medical Board of
21 California if placed on probation, the costs of probation monitoring; and

22 4. Taking such other and further action/as deemed necessary and proper.

23 DATED: March 26, 2014


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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